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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,223	10/29/2003	Chad Boyd	SHM.P.US0046DIV	5245
26360	7590	08/28/2006		
RENNER, KENNER, GREIVE, BOBAK, TAYLOR & WEBER FIRST NATIONAL TOWER FOURTH FLOOR 106 S. MAIN STREET AKRON, OH 44308				
			EXAMINER TENTONI, LEO B	
			ART UNIT 1732	PAPER NUMBER

DATE MAILED: 08/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/696,223	Applicant(s) BOYD ET AL.	
	Examiner Leo B. Tentoni	Art Unit 1732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 01 May 2006 has been entered.

2. Applicant's request for interview (submitted on 01 June 2006) is acknowledged by the examiner. Due to the examiner's workload, time constraints and a lengthy (and partly unexpected) absence from the office, the examiner was unable to schedule an interview prior to the deadline for action for the instant application. Furthermore, an interview would probably not have expedited prosecution because the grounds of rejection set forth below are different than the grounds of rejection in the previous final Office Action (mailed on 31 January 2006).

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

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The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The expressions "a second extruder flow path that is isolated from the first extruder flow path" (claim 1, lines 7 and 8) and "advancing the single ingredient in the isolated first and second extruder flow paths" (claim 1, lines 9 and 10) do not have clear and proper antecedent basis in the originally-filed specification and thus, these expressions constitute new matter.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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6. Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Tsai et al (U.S. Patent 5,698,322 A).

Tsai et al (see the entire document, in particular, col. 2, line 56 to col. 3, line 13; col. 8, lines 21-44) teaches a process of making a multi-structural filament from a single ingredient (e.g., a polymer) including providing different shear conditions for one of the flow paths. The aspect of volume percent is inherent in Tsai et al principally because Tsai et al teaches the same filament structure (i.e., multi-structural) as recited in the instant claims.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary.

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Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keuchel et al (U.S. Patent 3,861,843 A).

Keuchel et al (see the entire document, in particular, col. 2, lines 16-27; col. 2, line 52 to col. 4, line 49) teaches a process of making a multi-structural filament from a single ingredient (e.g., a polymer) including providing different shear conditions for one of the flow paths, except that Keuchel et al does not explicitly teach the aspects of two (or more) extruders or volume percent, which would have been obvious to one of ordinary skill in the art at the time the invention was made in the process of Keuchel et al principally because Keuchel et al teaches the use of conventional screw extruders or equivalent means and Keuchel et al also teaches the same filament structure (i.e., multi-structural) as recited in the instant claims.

10. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsai et al (U.S. Patent 5,698,322 A).

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Tsai et al (see the entire document, in particular, col. 2, line 56 to col. 3, line 13; col. 8, lines 21-44) teaches a process of making a multi-structural filament from a single ingredient (e.g., a polymer) including providing different shear conditions for one of the flow paths, except that Tsai et al does not explicitly teach the aspect of volume percent, which would have been obvious to one of ordinary skill in the art at the time the invention was made in the process of Tsai et al principally because Tsai et al teaches the same filament structure (i.e., multi-structural) as recited in the instant claims.

Response to Arguments

11. Applicant's arguments filed on 01 June 2006 have been fully considered but they are not persuasive.

12. With respect to the claim language, the specification at page 8, lines 21-26 has been considered, but is not deemed to provide support for the instant claims, particularly the aspect of "isolated".

13. Regarding Keuchel et al, the aspect of two (or more) extruders would have been obvious to one of ordinary skill in the art at the time the invention was made in the process of Keuchel et al principally because Keuchel et al teaches the use of conventional screw extruders or equivalent means, which (and

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not the instant specification) provides motivation for the use of two (or more) extruders.

14. With respect to Tsai et al, the materials of Tsai et al meet the limitation of a "single ingredient" as defined in the instant specification because the materials of Tsai et al are optical isomers, and these materials are essentially chemically and physically identical (as required for a "single ingredient" as defined in the instant specification).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leo B. Tentoni whose telephone number is (571) 272-1209. The examiner can normally be reached on Monday - Friday (6:30 A.M. - 3:00 P.M.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina A. Johnson can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Leo B. Tentoni
Primary Examiner
Art Unit 1732

lbt